

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 15,254

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare imposing sanctions on his ANFC grant for his failure to comply with the requirements of the Reach Up program. The issue is whether the petitioner should be exempt from the activities required by Reach Up.

FINDINGS OF FACT

The facts are not in dispute. The petitioner is a Group 3 unemployed parent who has been receiving ANFC for at least the last 28 months. He has been unemployed throughout that time. The petitioner's wife is employed about 30 hours per week.

The petitioner and his wife are the parents of one minor child and are the foster parents (through SRS) for four of their grandchildren. The youngest child turned one year old on November 4, 1997.

It appears that the petitioner was initially designated as the "primary wage earner" in the family despite the fact that it is his wife who is now working. When the family reached the end of its "time limit" for ANFC benefits under the Welfare Restructuring Project (WRP) the Reach Up office scheduled a meeting with the petitioner on October 6, 1997, to begin a formal job search prior to being placed in subsidized employment. When the petitioner did not appear at this meeting or call to explain his absence the Reach Up office scheduled him for a "conciliation" meeting on October, 17, 1997. When the petitioner neither appeared for that meeting nor contacted Reach Up another conciliation meeting was set up for October 24, 1997. The petitioner did not appear at that meeting either, and did not contact Reach Up.

On October 28, 1997, the Reach Up office notified the petitioner's ANFC caseworker that the petitioner had been sanctioned under Reach Up for his failure to appear at the above meetings. On October 29, 1997, the Department sent the petitioner a notice notifying him of the sanctions. The sanctions imposed by the Department were that as of December 1, 1997, the family's housing, utilities, and fuel expenses would be paid by the Department out of their ANFC check through vendors, and that to avoid closure of their ANFC grant the petitioner would have to report the family's circumstances in person on a thrice-monthly basis.

The petitioner does not dispute the fact that he essentially ignored the meetings scheduled for him by Reach Up. He maintains, however, that he should have been exempted from the requirements of Reach

Up in the first place because he is the primary care provider for his own minor child and as a foster parent for his four grandchildren. The petitioner maintains, not unreasonably, that it is a "full-time job" to care for five minor children and that finding suitable day care would be difficult. Moreover, he maintains that SRS foster parents should be exempt from Reach Up.

ORDER

The Department's decision is affirmed.

REASONS

As a condition of eligibility for ANFC as an "unemployed parent" the "principal earner" must cooperate with the requirements of Reach Up. W.A.M. ' 2333.1(7).

The petitioner maintains that his wife, not he, has the recent history of being the only wage earner for the family, and that she should, therefore, be considered the "principal earner" for the family. However, under the regulations the principal earner is determined at the time of application for ANFC based on the parents' relative employment histories as of the date of their application. W.A.M. ' 2333.1(1). Nothing in the regulations provides for a change in principal earner status once the family begins receiving ANFC.

Under W.A.M. ' 2343.6, a parent who remains unemployed two months prior to the end of his ANFC time limit is required to participate in a job search supervised by Reach Up. A parent who is the principal caregiver for a child under six months of age is exempt from Reach Up participation. W.A.M. ' 2344.2(A)(7). The principal caregiver of a child between six and eighteen months of age is "exempt from any work requirement but must satisfactorily participate in the Reach Up program". W.A.M. ' 2344.2(B)(5). As noted above, one of the petitioner's grandchildren (for whom the petitioner is a foster parent) turned one year old in November, 1997. Under the above regulations, this did not exempt the petitioner from participating in Reach Up. Nothing in the regulations exempts parents of SRS foster children from Reach Up participation.

A parent with young children who is not exempt from participation in Reach Up may still demonstrate "good cause" for noncompliance based on specific "short-term, unexpected conditions which are beyond the parent's control". W.A.M. ' 2349.2. One of those conditions is: "The parent, after making a good faith effort, was unable to make necessary child care arrangements subject to the provisions in 2348." Section 2348 provides for child care assistance payments for parents participating in Reach Up.

In this case, the petitioner does not allege that he has ever attempted to find day care. Even if he did, his refusal at the outset to participate in Reach Up on this basis is putting the cart before the horse--because his eligibility for child care assistance (and help to locate that care) would be contingent upon his participation in Reach Up. At this point, because he has refused any participation in Reach Up, it could not be found that the petitioner has made a "good faith effort" to obtain child care.

As noted above, the petitioner failed not only to attend a scheduled job search meeting at Reach Up, but also to appear for two scheduled "conciliation" meetings. Under the regulations, the conciliation process begins when an individual fails without good cause to cooperate with Reach Up. W.A.M. ' 2349.4. The conciliation process is designed to "resolve disputes related to an individual's participation" in Reach Up. W.A.M. ' 2350. That regulation also provides: "Failure without good cause to appear for two scheduled conciliation conferences results in automatic imposition of the applicable sanction." Again,

the petitioner ended up hurting his case further by refusing to attend the meetings that were specifically designed to address the concerns he had about participation in the program.

Under W.A.M. ' 2351.2(1), sanctions for Group 3 parents who have reached the end of their ANFC time limits include placing the household's shelter expenses under vendor payments and requiring the noncompliant parent to attend three meetings per month in order to receive any remaining ANFC benefits.

At the hearing in this matter, the Department explained to the petitioner that the regulations provide that the sanction is ended when a parent complies with all the program requirements. See W.A.M. ' 2351.2 (4). The petitioner was also advised that once he begins participation in Reach Up he has separate appeal rights if he disagrees with any determination made by Reach Up concerning any specific requirement of participation, exemptions, or good cause for nonparticipation.

At this point, however, inasmuch as the Department's decision in this case to impose sanctions is in accord with the applicable regulations, it must be affirmed. 3 V.S.A. ' 3091(d) and Fair Hearing Rule No. 17.

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